



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 14, 1996

Ms. Susan G. Spinks
Assistant General Counsel
Texas A&M University System
Office of the Vice Chancellor
and General Counsel
301 Tarrow, 6th Floor
College Station, Texas 77843-1230

OR96-2102

Dear Ms. Spinks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102128.

The Technology Licensing Office ("TLO") of the Texas A&M University System ("TAMUS") received a request from an attorney for "[a]ny and all Business Plans relating to any and all current, pending, expected or potential licenses, copyrights, patents or other types of technology interests, including but not limited to TEES Project No.'s 432, 433, 589, 603, 651, 723, 957, 1075, 431, 439, 579, 604, P-53, P-TLO-37, L-13, and L-10." You state that TLO files "contain one such business plan" and assert that it is excepted from required public disclosure under sections 552.101, 552.104, and 552.110 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception applies to information made confidential by statute. You assert that section 51.914 of the Texas Education Code makes the requested information confidential. Section 51.914 provides, in pertinent part:

In order to protect the actual or potential value, the following information shall be confidential and shall not be subject to disclosure under [the Open Records Act], or otherwise:

(1) all information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information (including computer programs) developed in whole or in part at a state institution of higher education, regardless of whether patentable or capable of being registered under copyright or trademark laws, that have a potential for being sold, traded, or licensed for a fee.

The purpose of section 51.914(1) is to protect the "actual or potential value" of technological and scientific information developed in whole or in part at a state institution of higher education. Open Records Decision No. 497 (1988) at 6 (interpreting former Education Code section 51.911). We agree that the business plan responsive to this request "relat[es] to . . . the application or use of . . . a product, device, or process . . . developed in whole or in part at a state institution of higher education . . . that [has] a potential for being sold, traded, or licensed for a fee." Therefore, the requested information is confidential under section 51.914 of the Education Code and must be withheld from disclosure under section 552.101 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/rho

Ref.: ID# 102128

Enclosures: Submitted documents

cc: Mr. Sam E. Rowland
Law Offices of Sam E. Rowland, P.C.
1733 Briarcrest Drive, Suite 210
Bryan, Texas 77802
(w/o enclosures)

¹As we resolve this matter under section 552.101, we need not address the other exceptions you raise.